

Each of the BOC applicants has a long history of providing access to its poles and conduits. See id. ¶ 4. As of May 31, 2003, third parties (such as cable operators) and CLECs have thousands of pole attachments in each of the applicant states and occupy millions of linear feet of conduit innerduct. See id. ¶ 7.¹³⁹

Both the ICC and the PUCO have certified to this Commission that they regulate the rates, terms, and conditions of access to poles, ducts, conduits, and rights-of-way in conformance with section 224(c)(2) and (3). Id. ¶ 5. Each of the BOC applicants has developed and offered a structure access appendix, available to any telecommunications carrier and containing terms and conditions consistent with 47 U.S.C. § 224, the Local Competition Order, and applicable state law. Id. ¶ 6 (indicating that the current form of that appendix has been adopted in the Easton Agreement).¹⁴⁰ At the request of a telecommunications carrier, each of the applicant telephone companies will also negotiate, and if necessary arbitrate, modifications to the standard appendix. Id.

Except where there is insufficient capacity to accommodate a request or where the request is denied based upon nondiscriminatory considerations of safety, reliability or engineering principles, the applicant telephone companies make available, to the extent they may lawfully do so, access to poles, ducts, conduits and rights-of-way they own or control. Id. ¶ 10.

¹³⁹ In Illinois, third parties occupy approximately 693,000 pole attachments with 2.4 million linear feet of conduit innerduct; in Indiana, third parties occupy approximately 131,000 pole attachments with 410,000 linear feet of conduit innerduct; in Ohio, third parties occupy approximately 700,000 pole attachments with 2.3 million linear feet of conduit innerduct; and, in Wisconsin, third parties occupy approximately 61,000 pole attachments with 222,000 linear feet of conduit innerduct. See Stanek Aff. ¶ 7.

¹⁴⁰ See Easton Agreement, App. SA – Poles, Conduits and ROW (effective as of December 31, 2002, in Illinois; November 9, 2002, in Indiana; September 18, 2002, in Ohio; and November 6, 2002, in Wisconsin).

The BOC applicants will provide a party requesting access, at that party's expense, access to and copies of maps, records and additional information related to the BOC applicants' poles, ducts, conduits and rights-of-way. Id. ¶ 11. They also offer and provide assistance and guidance to any CLEC applying to them for an occupancy permit. Id. ¶ 12.

The applicant telephone companies respond within 45 days after receiving the request for access. Id. ¶ 13. If access is granted, the BOC applicant will advise the requesting party in writing what capacity expansions, make-ready work, or facilities modifications, if any, are required for the specific benefit of the requesting party and an estimate of the associated charges. If access is denied, the BOC applicants' response will include all relevant evidence and information supporting the denial, including an explanation of how such evidence and information relates to the denial for reasons of lack of capacity, safety, reliability, or engineering standards. Id. Except for maintenance ducts and ducts required to be reserved for use by municipalities, all usable but unused space on or in the telephone companies' poles, ducts, conduits and rights-of-way is available for assignment. Neither the applicant telephone companies nor any other requesting party may reserve space for future needs. Id. ¶ 14.

The BOC applicants have established performance measurements to measure the percentage of requests for access to poles, ducts, conduits and rights-of-way processed within 35 days (PM 105) and the average time it takes to process a request for access to poles, ducts, conduits and rights-of-way (PM 106). Id. ¶ 3 n.2. The results for PM 105 show that, over the past three months, none of the requests for access to poles, ducts, conduits, and rights-of-way by CLECs in Illinois required more than 35 days to process. See Ehr IL Aff. ¶ 64 & Attach. B (PM

105-01).¹⁴¹ And, according to PM 106, the requests in Illinois were processed on average in 16.18 days. See id. ¶ 64 & Attach. B (PM 106). These performance results demonstrate that the BOC applicants provide CLECs with nondiscriminatory access to its poles, ducts, conduits, and rights-of-way.

D. Checklist Item 4: Unbundled Local Loops

Checklist Item 4 requires a BOC to make local loop transmission from a central office to customer premises available on an unbundled basis. See 47 U.S.C. § 271(c)(2)(B)(iv). In order to establish compliance with this checklist item, a BOC must demonstrate that it: (i) has a concrete and specific legal obligation to provide unbundled loops; (ii) is furnishing quality loops in quantities that competitors reasonably demand; and (iii) provides nondiscriminatory access to local loop transmission. E.g., Kansas/Oklahoma Order ¶ 178; Texas Order ¶¶ 247-248; New York Order ¶ 269. Compliance with Checklist Item 4 is measured by reviewing the BOC applicant's loop offerings in the aggregate. See AT&T Corp. v. FCC, 220 F.3d 607, 624 (D.C. Cir. 2000).

The BOC applicants fully comply with this checklist item, allowing CLECs to lease unbundled loops to provide local service without matching the BOCs' large, sunk investments in those facilities. The BOC applicants have each provisioned thousands of stand-alone loop UNEs in their states (ranging from 53,000 in Indiana to 319,000 in Illinois). See Heritage IL Aff., Attach. A; Heritage IN Aff., Attach. A. CLECs can also obtain this UNE as part of a UNE combination (e.g., UNE-P and EEL). In addition, the BOC applicants have established

¹⁴¹ In Indiana, Ohio, and Wisconsin, no CLECs have requested access to poles, ducts, conduits, or rights-of-way during the last three months. See Ehr IN Aff. ¶ 58; Ehr OH Aff. ¶ 57 & Attach. C (PM 105); Ehr WI Aff. ¶ 57.

nondiscriminatory processes and procedures for the provisioning of xDSL-capable loops and related services, and they each have complied fully with their obligations under the Line Sharing Order, the Line Sharing Reconsideration Order,¹⁴² and the UNE Remand Order. See *supra* Part III.B. The ICC concluded, “[o]n the whole of the record . . . SBC Illinois’ performance results demonstrate that it provides nondiscriminatory access to unbundled loops in accordance with the requirements of checklist item 4.” ICC Final Order ¶ 1871. The PUCO concluded that, “[b]ased on the evidence provided in this case [it] recommends that the FCC find that SBC Ohio is in compliance with Checklist Item 4.” PUCO Final Report and Evaluation at 175.¹⁴³

1. Nondiscriminatory Access to Unbundled Loops Used for Advanced Services

The BOC applicants have processes and procedures in place to ensure that CLECs receive nondiscriminatory access in the pre-ordering, ordering, and provisioning of xDSL-capable loops and related services, and the HFPL. See *generally* Chapman Aff. These systems have been tested through extensive commercial usage in all four applicant states. The BOC applicants’ performance in pre-ordering, ordering, provisioning, and maintenance of xDSL-capable loops demonstrates that they offer competing carriers nondiscriminatory access to xDSL-capable loops in their states. See Kansas/Oklahoma Order ¶¶ 182-183; Texas Order ¶ 284.

¹⁴² Third Report and Order on Reconsideration in CC Docket No. 98-147, Fourth Report and Order on Reconsideration in CC Docket No. 96-98, Third Further Notice of Proposed Rulemaking in CC Docket No. 98-147, Sixth Further Notice of Proposed Rulemaking in CC Docket No. 96-98, Deployment of Wireline Services Offering Advanced Telecommunications Capability, 16 FCC Rcd 2101 (2001); see also Order Clarification, Deployment of Wireline Services Offering Advanced Telecommunications Capability, 16 FCC Rcd 4628 (2001).

¹⁴³ The PSCW also expressly found that Wisconsin Bell satisfied this checklist item. See PSCW Phase I Final Order at 24 (Conclusion of Law 19).

Furthermore, the BOC applicants have implemented a fully operational separate affiliate for the provision of all advanced services. Ameritech Advanced Data Services (“AADS”) is SBC’s provider of advanced services in the applicant states. See *Habeeb Aff.* ¶ 4 (App. A, Tab 23). AADS orders facilities and services from the BOC applicants using interfaces that they have made available to CLECs, thus providing additional assurance that the available systems and procedures allow CLECs a meaningful opportunity to compete. See id. ¶ 6. Since line sharing became operational throughout the SBC Midwest region, moreover, AADS orders the HFPL using the same interfaces used by other CLECs. Id. ¶¶ 6, 11. AADS is operating in accordance with structural separation and nondiscrimination rules that the Commission established in the SBC/Ameritech Merger Order.¹⁴⁴ Accordingly, this constitutes “significant evidence” that the BOC applicants provide nondiscriminatory access to loops used for advanced services. New York Order ¶ 331.

a. Pre-Ordering and Ordering xDSL-Capable Loops

The BOC applicants’ xDSL pre-ordering and ordering processes allow CLECs to offer their customers any type of xDSL service, subject only to national industry standards for spectrum management. See *Chapman Aff.* ¶ 6. These processes have been fine-tuned through extensive collaboration with the data CLECs, as well as through high commercial volumes.

For pre-ordering, the BOC applicants provide both unaffiliated CLECs and AADS nondiscriminatory access to actual loop make-up information through a combination of electronic and manual processes. See id. ¶¶ 12-26; *Cottrell/Lawson Joint Aff.* ¶¶ 67-75; see also,

¹⁴⁴ Memorandum Opinion and Order, Applications of Ameritech Corp., Transferor, and SBC Communications Inc., Transferee, For Consent to Transfer Control, 14 FCC Rcd 14712 (1999), vacated in part, Association of Communications Enters. v. FCC, 235 F.3d 662 (D.C. Cir. 2001).

e.g., Massachusetts Order ¶ 68 (approving manual and electronic loop qualification processes).

This loop “qualification” process provides CLECs with electronic access to detailed information regarding the suitability of particular loops for xDSL services. See Chapman Aff. ¶¶ 22-23.

First, the BOC applicants provide electronic access to any actual loop make-up information contained in their live provisioning and engineering databases, including the actual loop length and the presence of any xDSL-disturbing devices. See id. ¶¶ 23-24. In addition, the BOC applicants offer CLECs the ability to access any loop make-up information stored in their archived database, which contains loop make-up information that has been “pre-pulled” from the live provisioning systems. The archived database is generally updated by wire center on a monthly basis. Id. ¶ 19.

In the event that the electronic databases do not contain actual loop make-up information, or to the extent that a CLEC desires more detailed information than is available electronically, affiliated and unaffiliated CLECs alike have the option of requesting that the BOC applicants’ back office personnel manually retrieve loop make-up data. See Cottrell/Lawson Joint Aff. ¶ 71. Whenever a CLEC or AADS requests manual loop qualification, the BOC applicants’ outside plant engineering staff will gather the loop make-up information from their paper records, update the loop qualification database, and make the information available to the requesting carrier. See Chapman Aff. ¶¶ 20, 23. If the BOC applicants’ legacy network does not have a complete loop to the requested premises, the BOCs will return information representative of a loop that could be assembled to service that customer premises. See Chapman Aff. ¶ 24.

As James D. Ehr explains in his affidavits, the BOC applicants’ performance in responding to loop qualification queries is easily sufficient to provide CLECs a meaningful

opportunity to compete. See, e.g., Ehr IL Aff. ¶¶ 86-89 (discussing pre-order response times).¹⁴⁵

Regardless of the interface that CLECs choose to utilize, and whether they submit electronic or manual loop qualification inquiries, the BOC applicants provide timely access to loop make-up information in full compliance with its obligations under Checklist Item 4.

For purposes of ordering loops for advanced services, CLECs use processes that are largely analogous to those used to order ordinary, stand-alone unbundled loops. See Chapman Aff. ¶ 5. While these order flows and interfaces are themselves nondiscriminatory, AADS now uses these same systems in order to further ensure that CLECs receive nondiscriminatory access. See Habeeb Aff. ¶ 6. The BOC applicants offer loop provisioning intervals for CLECs that are the same as or shorter than the intervals available to AADS. See Chapman Aff. ¶ 44. CLECs also have the option of selecting the precise loop conditioning they desire, and can even authorize (in their LSR) whatever conditioning is necessary to provision their desired service over a given loop. See id. ¶¶ 36-40, 43.

b. Line Sharing

The applicant telephone companies have implemented line sharing in their respective states in accordance with this Commission's requirements, affording both data CLECs and AADS the same opportunity to share the high-frequency portion of a voice line. See generally id. ¶¶ 51-81. In accordance with the Line Sharing Order, the BOC applicants unbundled the new HFPL UNE offering, which was developed in extensive collaboration with interested CLECs and was patterned after the xDSL-capable loop offering that has been found by the Commission to be 271 compliant in its Texas, Kansas/Oklahoma, and Arkansas/Missouri orders. Id. ¶ 52 & n.29.

¹⁴⁵ See also Ehr IN Aff. ¶¶ 77-79; Ehr OH Aff. ¶¶ 78-80; Ehr WI Aff. ¶¶ 76-78.

The BOC applicants continue to work collaboratively with the CLECs on an ongoing basis to resolve issues as they arise. Id. ¶¶ 55-56.

The applicant telephone companies make line sharing available to CLECs pursuant to approved interconnection agreements that fully comply with the Line Sharing Order and into which any CLEC can opt. See id. ¶ 69 & n.38. A CLEC may negotiate alternative terms. Id.

CLECs can utilize the same pre-ordering interface to obtain loop make-up information for stand-alone or line-shared loops and to order a manual look-up of any actual loop make-up information not stored in the live or archived electronic databases. This detailed, customer-specific information permits the data CLEC to determine whether it can provide DSL service to a particular end user via either the HFPL UNE or a stand-alone loop. See id. ¶¶ 17, 19; Cottrell/Lawson Joint Aff. ¶ 67. When ordering an HFPL UNE, in contrast to a stand-alone xDSL-capable loop, the data CLEC must identify the end user's telephone number and specify the desired arrangement for the line splitter. See Chapman Aff. ¶ 60. CLECs can submit HFPL orders either manually or through the available electronic interfaces. See id. ¶ 59 (for electronic ordering); Brown Aff. ¶ 20 (for manual ordering).

c. Line Splitting

The BOC applicants permit CLECs to engage in line splitting using UNEs in full compliance with the Commission's rules. Chapman Aff. ¶¶ 82-89. The BOC applicants support line splitting where a CLEC purchases separate UNEs (including unbundled loops, unbundled switching, and associated cross-connects) and combines them with its own (or a partner CLEC's) splitter in a collocation arrangement. A CLEC may lease an xDSL-capable loop UNE from SBC and use the loop to provision both data and voice services itself or in collaboration with another CLEC. Id. ¶¶ 82-83. CLECs can order a brand new line splitting arrangement through available

electronic ordering systems. Id. ¶ 87. In addition, if a CLEC seeks to engage in line splitting for an existing UNE-P voice customer, the BOC applicants will provide access to the same loop facility over which that customer currently receives service if the existing loop is xDSL-capable. Id. In August 2002, after consultation with CLECs, SBC Midwest additionally rolled out a single LSR process for converting an existing UNE-P voice customer to a line splitting arrangement. Id. By allowing CLECs to engage in line splitting in these ways, the BOC applicants meet all Commission requirements for line splitting. See, e.g., Texas Order ¶¶ 323-329; Kansas/Oklahoma Order ¶¶ 220-221.

The BOC applicants also have a process to allow a CLEC, when line splitting is no longer desired, to request that SBC reconfigure the switch port into a UNE-P for the voice service. See Chapman Aff. ¶ 88. Under this process, the voice CLEC may submit a single LSR to reconfigure the existing switch port in a line-splitting arrangement to the UNE-P. Upon receipt of such an order, the BOC applicant would establish a new voice-grade loop to the customer, disconnect the existing switch port from the data CLEC's cage, and then connect a switch port to the new voice grade loop. Id. The customer would keep the same telephone number. A separate request to disconnect the existing xDSL-capable loop in the line splitting arrangement would be necessary, if desired, to disconnect and discontinue billing of that loop. Id. & n.47.

d. Performance in Provisioning xDSL-Capable Loops

The Commission has identified five areas of performance that are important in a BOC's demonstration that it provides nondiscriminatory access to xDSL-capable loops and related services: (i) average installation interval; (ii) missed installation appointments; (iii) quality of provisioned xDSL-capable loops; (iv) timeliness and quality of xDSL loop maintenance and

repair; and (v) access to pre-ordering and ordering information. See Kansas/Oklahoma Order ¶¶ 182-197; Texas Order ¶¶ 282-306; New York Order ¶¶ 334-335. The BOC applicants' performance in each of these areas is superb and accordingly establishes that each "provisions xDSL-capable loops for competing carriers in substantially the same time and manner that it installs xDSL-capable loops for its own retail operations." Kansas/Oklahoma Order ¶ 185.

Specifically, applicant telephone companies provision xDSL-capable and line-shared loops for CLECs in a timely manner. See, e.g., Ehr IL Aff. ¶¶ 66-76.¹⁴⁶ The quality of these advanced-services loops has been excellent. Id. ¶¶ 77-79.¹⁴⁷ The BOC applicants also provide data CLECs with quality and timely maintenance and repair service for advanced-services loops. Id. ¶¶ 80-85.¹⁴⁸ And the applicant telephone companies provide timely access to loop make-up information. As previously discussed, see supra Part III.D.1.a, its pre-order performance provides CLECs a meaningful opportunity to compete. Id. ¶¶ 86-89.¹⁴⁹

In sum, the BOC applicants' excellent performance in provisioning xDSL-capable loops and line-shared loops demonstrates both that they provide nondiscriminatory access and that CLECs have a meaningful opportunity to compete in the market for advanced services in Illinois, Indiana, Ohio, and Wisconsin.

¹⁴⁶ See also Ehr IN Aff. ¶¶ 62-69; Ehr OH Aff. ¶¶ 61-69; Ehr WI Aff. ¶¶ 61-68.

¹⁴⁷ See also Ehr IN Aff. ¶¶ 70-71; Ehr OH Aff. ¶¶ 70-71; Ehr WI Aff. ¶¶ 69-70.

¹⁴⁸ See also Ehr IN Aff. ¶¶ 72-76; Ehr OH Aff. ¶¶ 72-77; Ehr WI Aff. ¶¶ 71-75.

¹⁴⁹ See also Ehr IN Aff. ¶¶ 77-79; Ehr OH Aff. ¶¶ 78-80; Ehr WI Aff. ¶¶ 76-78.

e. Performance in Provisioning BRI ISDN Loops

As they have elsewhere, CLECs in the applicant states have been offering IDSL service over loops designed to carry ISDN signals. As the Commission recognized in its Texas Order, “the fact that competing carriers use BRI loops for IDSL service . . . makes provisioning work more difficult than that required for the ISDN service that [the BOC] provisions using BRI loops.” Texas Order ¶ 301 (footnote omitted); see also Chapman Aff. ¶¶ 46-50.

The BOC applicants have taken several steps to address the performance problems that stem from the technical incompatibility of some CLEC-provisioned IDSL service with the industry-standard BRI ISDN loop that the BOCs offer. First, they have worked with CLECs to develop a new IDSL loop offering that is now available. See Chapman Aff. ¶ 49. They have also upgraded the test equipment they use to ensure that the IDSL-capable loop product is provisioned correctly. Id. ¶ 50.

Largely as a result of these efforts, the BOC applicants’ performance on the limited volumes of IDSL-capable loops has been strong. During the three-month period ending in May 2003, CLEC customers in Illinois, for example, experienced fewer missed installation appointments than did Illinois Bell’s retail customers (2.7 percent for CLECs versus 3.62 percent for retail). Ehr IL Aff. ¶ 91. Over that same time period, Illinois Bell additionally installed more than 96.9 percent of CLEC BRI loop orders within the customer requested due date. Id. ¶ 92.¹⁵⁰

The BOC applicants have also provisioned quality BRI loops, as reflected in the performance results for both trouble reports within 30 days of installation and the overall rate of

¹⁵⁰ Similar results were achieved in Indiana, Ohio, and Wisconsin. See Ehr IN Aff. ¶ 81; Ehr OH Aff. ¶¶ 82-83; Ehr WI Aff. ¶¶ 80-81.

reported troubles. Id. ¶¶ 95-96.¹⁵¹ On the limited occasions where CLEC BRI loops do experience troubles, CLECs generally receive faster and higher quality repair services than do the BOC applicants' retail customers. Id. ¶¶ 97-98.¹⁵²

2. Nondiscriminatory Access to Stand-Alone Loops

The BOC applicants' loop offerings include 2-wire analog loops, 4-wire analog loops, 2-wire ISDN digital-grade lines, 4-wire DS1 digital-grade lines, DS3 digital loops, and various 2- and 4-wire loops capable of offering xDSL services. See, e.g., Deere IL Aff. ¶¶ 78-79. Additional loop types are available through the BFR process described in Part III.A, supra. See id. ¶¶ 8, 71-75. For the small percentage of end users served by integrated digital loop carrier ("IDLC") equipment – approximately three percent in Illinois – the BOC applicants provide unbundled loops through alternative facilities. Id. ¶¶ 100-102.¹⁵³ For CLECs that choose to have the BOC provide loops on a physically separate basis, the BOC applicants offer cross-connects that are matched to the loop type selected by the CLEC, and include a cross-connect to the CLEC's collocation space. Id. ¶ 80.

a. DS1 Loop Performance

The BOC applicants' performance in provisioning high-quality DS1 loops on a timely basis has been strong. As James D. Ehr explains, between March and May 2003, Illinois Bell met more than 97 percent of CLEC customer requested due dates for DS1 loops. See Ehr IL Aff.

¹⁵¹ See also Ehr IN Aff. ¶¶ 83-84; Ehr OH Aff. ¶¶ 85-87; Ehr WI Aff. ¶¶ 83-84.

¹⁵² See also Ehr IN Aff. ¶¶ 85-86; Ehr OH Aff. ¶¶ 88-89; Ehr WI Aff. ¶¶ 85-86.

¹⁵³ See also Deere IN Aff. ¶¶ 100-102 (IDLC represents about 7 percent of working loops in Indiana); Deere OH Aff. ¶¶ 100-102 (IDLC represents about 2 percent of working loops in Ohio); Deere WI Aff. ¶¶ 100-102 (IDLC represents approximately 3.5 percent of working loops in Wisconsin).

¶ 101 (PM 56-03).¹⁵⁴ The BOC applicants' comprehensive performance data additionally demonstrate that they provision high-quality DS1 loops for the CLECs. Indeed, for the past three months, CLEC customers have experienced the same or fewer troubles within 30 days of installation than have the BOCs' retail customers (PM 59-08). Id. ¶ 105.¹⁵⁵ Likewise, the BOCs' maintenance and repair performance demonstrates that CLEC troubles are generally repaired more quickly than retail troubles. Id. ¶ 107.¹⁵⁶

b. The NID and Subloop Unbundling

In addition to loops themselves, CLECs are able to obtain and use the Network Interface Device ("NID") under terms and conditions approved by the state commissions. See Deere IL Aff. ¶¶ 65-70. CLECs may connect to the customer's inside wire at the BOC applicants' NID at no charge, or they may pay the BOC to perform any NID repairs, upgrades, disconnects, or rearrangements they desire. See id. ¶ 67. The BOC applicants also provide and connect the NID at no additional charge when CLECs order an unbundled loop. See id. ¶ 68. At multiple dwelling units, CLECs can either provide their own NID or connect with the end-user's premises wire via the BOCs' NIDs where necessary. See id. ¶ 69. Working in collaboration with CLECs, and at their request, the BOC applicants have also developed a set of procedures for moving internal NIDs outdoors. See id. ¶ 70 & n.13.

¹⁵⁴ During the same period, Indiana Bell and Ohio Bell both met more than 97 percent of the customer requested due dates, see Ehr IN Aff. ¶ 89, Ehr OH Aff. ¶ 90 n.49, while Wisconsin Bell met over 98 percent of the customer-requested due dates, see Ehr WI Aff. ¶ 88.

¹⁵⁵ See also Ehr IN Aff. ¶ 90; Ehr OH Aff. ¶ 94; Ehr WI Aff. ¶ 91.

¹⁵⁶ See also Ehr IN Aff. ¶ 92; Ehr OH Aff. ¶ 96; Ehr WI Aff. ¶ 93.

CLECs also can order sub-elements of the local loop from the BOC applicants on an unbundled basis. See id. ¶¶ 81-83; see UNE Remand Order ¶¶ 206-229. Available sub-elements include the twisted copper pair between the main distribution frame and the feeder distribution interface, see, e.g., Deere IL Aff. ¶ 83, and between the feeder distribution interface and the NID, see id.; dark fiber, see id. ¶ 92; and digital loop carrier, see id. ¶ 99.

c. Basic Loop Performance

Comprehensive performance measurements confirm the BOC applicants' ability to process unbundled-loop orders, to provision these loops, and to bill for them, all the while ensuring that these transactions flow through the BOCs' systems in a timely and accurate fashion. See generally Ehr IL Aff. ¶ 66 (Illinois Bell met the applicable performance standard for 92.3 percent of the unbundled local loop submeasures in at least two out of the past three months).¹⁵⁷

The BOC applicants' overall performance in the processing, provisioning, maintenance, and repair of unbundled-loop requests has been easily sufficient to provide CLECs a meaningful opportunity to compete to serve local customers statewide. CLECs report few provisioning problems on unbundled loops (PM 59-05), and those they do report are resolved far more quickly

¹⁵⁷ See also Ehr IN Aff. ¶ 60 (Indiana Bell met the applicable performance standard for 96.1 percent of the unbundled local loop submeasures in at least two out of the past three months); Ehr OH Aff. ¶ 59 (Ohio Bell met the applicable performance standard for 96.2 percent of the unbundled local loop submeasures in at least two out of the past three months); Ehr WI Aff. ¶ 59 (Wisconsin Bell met the applicable performance standard for 94.5% of the unbundled local loop submeasures in at least two out of the past three months).

than retail troubles (PM 67-05), and with fewer instances of repeat trouble reports (PM 69-05).

See id. ¶¶ 116-119.¹⁵⁸

d. Coordinated and Frame Due Time Conversions (“Hot Cuts”)

The BOC applicants offer CLECs a choice between two different methods of coordinated conversions – the coordinated hot cut process (“CHC”) and the frame due time (“FDT”) process – allowing CLECs to select the process that best fits their resources and priorities. See Brown/Muhs Joint Aff. ¶¶ 4-5 (App. A, Tab 7). The applicant telephone companies also have ample personnel resources in place to satisfy CLEC demand for CHC or FDT conversions, thus providing CLECs the ability to “choose freely between the CHC and FDT hot cut processes.” Kansas/Oklahoma Order ¶ 201; Texas Order ¶ 261.

The BOC applicants’ performance in the provisioning of coordinated conversions in their respective states is easily sufficient to provide CLECs a meaningful opportunity to compete. Indeed, their performance has been outstanding. For example, in each of the past three months, Illinois Bell has provisioned more than 98.8 percent of CHC conversions and more than 98.4 percent of FDT conversions within one hour for orders involving fewer than 10 lines. See Ehr IL Aff. ¶ 136.¹⁵⁹ Between March and May 2003, Illinois Bell caused only one premature disconnect out of 2,357 CHC orders that it completed (PM 114-02), and only a single conversion lasted

¹⁵⁸ See also Ehr IN Aff. ¶¶ 99-101; Ehr OH Aff. ¶¶ 105, 107-108; Ehr WI Aff. ¶¶ 102, 104-105.

¹⁵⁹ The results in the other states have been even better. See Ehr IN Aff. ¶ 119 (100% for both CHC and FDT); Ehr OH Aff. ¶ 125 (96.5% for CHC and 100% for FDT); Ehr WI Aff. ¶ 121 (nearly 99.5% for both CHC and FDT).

more than 30 minutes (PM 115-02.1). See id. ¶¶ 137, 139.¹⁶⁰ During that same time period, Illinois Bell also far surpassed the applicable benchmark for FDT conversions on those same performance measures. See id. ¶¶ 138, 140. In fact, CLECs submitted provisioning trouble reports for a mere 0.08 percent of CHC conversions and 0.00 percent of FDT conversions over the past three months, well within the Commission's five-percent benchmark for outages on conversion. See id. ¶ 141.¹⁶¹ Finally, CLEC trouble reports submitted on CHC and FDT conversions within seven days of installation were less than 0.94 percent of total conversions completed for the three-month period in each state. See Brown/Muhs Joint Aff. ¶ 20. Because the BOC applicants perform timely coordinated hot cuts with a minimum of outages on conversion and reported troubles within seven days, they provide CLECs a meaningful opportunity to compete.

E. Checklist Item 5: Unbundled Local Transport

Section 271(c)(2)(B)(v) of the competitive checklist requires the BOC to offer "[l]ocal transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services." 47 U.S.C. § 271(c)(2)(B)(v); see also 47 C.F.R. § 51.319(d). Each of the BOC applicants provides access in its state to both dedicated interoffice transport and shared (common) transport consistent with the Commission's unbundling requirements. See,

¹⁶⁰ The performance in the other states has been similarly strong. See Ehr IN Aff. ¶¶ 120, 122 (out of 748 CHC conversions, Indiana Bell had no premature disconnects and no conversion lasted more than 30 minutes); Ehr OH Aff. ¶¶ 126, 128 (out of 777 CHC conversions, Ohio Bell had only two premature disconnects, and only two conversions lasted more than 30 minutes); Ehr WI Aff. ¶¶ 122, 124 (out of 1,411 CHC conversions, Wisconsin Bell had no premature disconnects, and no conversion lasted more than 30 minutes).

¹⁶¹ In Indiana, Ohio, and Wisconsin, none of the conversions was affected by provisioning trouble reports in any of the study period months. See Ehr IN Aff. ¶ 124; Ehr OH Aff. ¶ 129; Ehr WI Aff. ¶ 125.

e.g., Deere IL Aff. ¶¶ 120-135; Alexander IL Aff. ¶¶ 89-93. In addition to these standard offerings, a CLEC may obtain new or additional unbundled transport elements through the BFR process. See Deere IL Aff. ¶¶ 71-75. As the ICC found, “[t]he record shows Ameritech Illinois to be compliant with the requirements for provisioning Unbundled Local Transport.” ICC Final Order ¶ 1897.¹⁶²

Dedicated Transport. Dedicated transport is available at standard transmission speeds of up to OC-48, and is available between the BOC applicants’ and a CLEC’s wire centers or switches. See Deere IL Aff. ¶¶ 128-129. Higher speeds will be provided as they are deployed among the BOC applicants’ wire centers. See id. ¶ 129. The BOC applicants also permit CLECs to use dark fiber as an unbundled element to provide dedicated transport, in conformance with the UNE Remand Order. See id. ¶¶ 132-133.

The BOC applicants offer a digital cross-connect system functionality in conjunction with the unbundled dedicated transport element with the same functionality that is offered to interexchange carriers or additional functionality as provided in interconnection agreements. See id. ¶ 134. The BOC applicants also provide all technically feasible types of multiplexing and demultiplexing. See id. ¶¶ 130-131.

Shared Transport. The BOC applicants provide access to unbundled shared transport when a CLEC purchases it in conjunction with an Unbundled Local Switching port for the purpose of delivering traffic from/to a CLEC end user. See id. ¶ 122. Unbundled Local

¹⁶² See also PUCO Final Report and Evaluation at 180 (“we believe that SBC Ohio provides local transport from the trunk-side of a wireline local exchange carrier switch unbundled from switching or other services pursuant to the FCC rules, the PUCO’s decisions and policies, and consistent with the requirements of Section 271(c)(2)(B)(v) of the 1996 Act”); PSCW Phase I Final Order at 183 (“[t]he Commission finds that SBC Wisconsin complies with this checklist item”).

Switching with Shared Transport permits the CLEC to access the interoffice network for the origination from, and completion to, the associated Unbundled Local Switching port of end-user local traffic to, and from, the BOC applicants' switches or third-party switches. See id. ¶ 123. All CLEC local traffic between the applicant telephone companies' switches will use Shared Transport and all local CLEC traffic to non-BOC switches will use the transit function of Shared Transport (which is known as "Shared Transport-Transit"). See id. ¶ 124. All interexchange traffic will be routed to the interLATA or intraLATA toll interexchange carrier, as appropriate, selected for that ULS port. See id. The BOC applicants also permit CLECs that purchase Unbundled Local Switching to use Shared Transport (using a product known as ULS-ST) to route intraLATA toll traffic pursuant to tariff, as applicable, and under applicable interconnection agreements. See Alexander IL Aff. ¶¶ 91-93.¹⁶³

The BOC applicants will use existing routing tables contained in their switches to provide Unbundled Local Switching with Shared Transport. The CLEC is not required to purchase a trunk port or associated equipment for the use of this UNE. See Deere IL Aff. ¶ 125.

Performance. Available data confirm that CLECs have nondiscriminatory access to dedicated and shared transport elements. For the period March through May 2003, Illinois Bell, for example, achieved the applicable performance standards for all of the applicable measurements for which sufficient data were reported. See Ehr IL Aff. ¶¶ 144-147 & Attach. H.¹⁶⁴

¹⁶³ See also Alexander IN Aff. ¶¶ 90-92; Alexander OH Aff. ¶¶ 90-92; Alexander WI Aff. ¶¶ 90-92.

¹⁶⁴ These same results were achieved in Indiana, Ohio, and Wisconsin. See Ehr IN Aff. ¶¶ 126-128 & Attach. H; Ehr OH Aff. ¶¶ 131-133 & Attach. H; Ehr WI Aff. ¶¶ 127-129 & Attach. H.

F. Checklist Item 6: Unbundled Local Switching

The BOC applicants also satisfy Checklist Item 6, which requires that a BOC provide unbundled local switching. See 47 U.S.C. § 271(c)(2)(B)(vi). They provide CLECs unbundled switching capability in a nondiscriminatory manner. See, e.g., Deere IL Aff. ¶¶ 137-143.¹⁶⁵ The ICC found that “SBC Illinois’ commercial performance results with respect to unbundled local switching demonstrate that it is providing CLECs nondiscriminatory access to ULS, and no party has contested SBC Illinois’ performance.” ICC Final Order ¶ 2000.¹⁶⁶

Available Facilities and Functions. The BOC applicants provide requesting carriers access to line-side and trunk-side switching facilities, plus the features, functions, and capabilities of the switch. See Deere IL Aff. ¶¶ 137-139; see also Second Louisiana Order ¶¶ 207-209; Texas Order ¶¶ 336-338. The applicant telephone companies offer, among other things, the connection between a loop termination and a switch line card, see Deere IL Aff. ¶ 137; the connection between a trunk termination and the trunk card, see id. ¶ 138; all vertical features the switch port is capable of providing, see id. ¶ 139; and any technically feasible customized routing, blocking/screening, and recording functions, see id.

The BOC applicants also provide CLECs access to all call-origination and call-completion capabilities of the switch, including capabilities for intraLATA and interLATA calls. See id. ¶ 141. Unbundled tandem switching is also available, as is packet switching (where

¹⁶⁵ See also Deere IN Aff. ¶¶ 137-143; Deere OH Aff. ¶¶ 137-143; Deere WI Aff. ¶¶ 137-143.

¹⁶⁶ See also PUCO Final Report and Evaluation at 189 (“Based on the record in this proceeding, the PUCO recommends that the FCC find that SBC Ohio has satisfied Checklist Item 6 by offering local switching unbundled from transport, local loop transmission, or other services.”); PSCW Phase I Final Order at 197 (finding Wisconsin Bell in compliance with Checklist Item 6).

required). See id. ¶¶ 153-159; Chapman Aff. ¶ 90; see also UNE Remand Order ¶ 313. The BOC applicants provide CLECs with the necessary cross-connects for local switching. See, e.g., Deere IL Aff. ¶ 165.

Customized Routing. When a CLEC is using Unbundled Local Switching or Unbundled Local Switching with shared transport and its end user makes a call to Operator Services (“OS”) or Directory Assistance (“DA”), it is the BOC applicant’s end-office switch that must recognize and route the call for the end user based on the CLEC’s routing instructions. See id. ¶ 148. The CLEC may choose one of two routes for its end user’s OS/DA calls: First, it may choose to have the end-office switch route that OS or DA call in the exact manner as an OS or DA call made by a BOC’s end user – that is, to follow the BOC’s normal standard routing tables – in which case the OS or DA call would route over the BOC’s dedicated trunks to its OS/DA platform. Alternatively, the CLEC may choose to specify the dedicated trunk group to which it wants that OS or DA call to route, in which case the CLEC would generally point to a trunk group destined for its own OS/DA provider. See id.

If a carrier wishes to use a different form of custom routing – e.g., to aggregate its OS/DA traffic to a tandem switch within the LATA from which it would pick up the OS/DA traffic for transport to its OS/DA provider’s platform – it may determine the technical feasibility and costs of such a design by submitting a BFR. See id. ¶ 146.

G. Checklist Item 7: Nondiscriminatory Access to 911, E911, Directory Assistance, and Operator Call Completion Services

The BOC applicants satisfy the requirements of Checklist Item 7, 47 U.S.C. § 271(c)(2)(B)(vii), by making emergency services (E911 and 911), OS, and DA available to CLECs on a nondiscriminatory basis. See Valentine Aff. ¶¶ 8-44 (App. A, Tab 39); Nations Aff. ¶¶ 4-15 (App. A, Tab 34). The ICC, the PUCO, and the PSCW all expressly found the BOC

applicants to have satisfied the requirements of Checklist Item 7. See ICC Final Order ¶ 2107; PUCO Final Report and Evaluation at 201; PSCW Phase I Final Order at 213-14.

E911 and 911. E911 and 911 services allow telephone subscribers quick access to emergency assistance. The BOC applicants provide CLECs access to these services through interconnection agreements and, where applicable, tariffs. See Valentine Aff. ¶ 5.

The applicant telephone companies have implemented comprehensive procedures and systems for receiving, validating, updating, and processing rejected 911 customer records. See id. ¶¶ 22-39. A CLEC's UNE-P and resale services are handled in the same manner – *i.e.*, the BOC performs the E911 database updates as part of the service order process. See id. ¶ 26. CLECs that use their own switching to provide service over stand-alone UNE loops update their own end-users' E911 database records. See id. CLECs that deploy stand-alone switch ports and line-splitting arrangements must issue LSRs to initiate the service order process in order to update their end-users' records with respect to end-user service address information. See id. & n.14. In such circumstances, the CLEC controls the relationship between the loop and port through the connection to its splitter within its collocation arrangement. If re-arrangements occur within the collocation arrangement, only the CLEC would know that the E911 database would need to be updated with a new end-user address. See id.

The BOC applicant employees who specifically support 911 services and employees of the 911 Database Services Provider (Intrado) perform detection and correction of CLEC end-user data errors in the 911 computer system. See id. ¶ 28. The BOC applicants are responsible for error retrieval and error correction for the end-user records of resale and UNE-P customers, as well as customers serviced by providers utilizing stand-alone switch ports. See id.

The BOC applicants provide several different functions in connection with routing of CLEC end-user 911 calls. They switch the E911 calls through the Control Office to the appropriate Public Safety Answering Point ("PSAP") as delineated by the Master Street Address Guide produced by the county and maintained by the BOC applicants. See id. ¶ 18. The applicant telephone companies transport the E911 call from the Selective Routing Control Office ("SR") to the PSAP; the CLEC is responsible for transporting the E911 call from each point of interconnection to the SR. See id. ¶ 18. And the BOC forwards the telephone number, if forwarded by the CLEC, along with the associated name and address, to the PSAP for display. See id. The applicant telephone companies provide and maintain all equipment necessary for these services. See id. ¶¶ 19-21.

Illinois Bell has installed approximately 3,600 E911 trunks in Illinois to serve CLECs. See Heritage IL Aff., Attach. A.¹⁶⁷ Because the BOC applicants do not have access to calling and blockage data on CLEC-originating trunks, however, switch-based CLECs must determine the number of dedicated E911 trunks they require and place timely orders for new trunks. See Valentine Aff. ¶ 19.

Directory Assistance/Operator Services. CLECs electing to use one of the BOC applicants as their wholesale provider of OS/DA services are given access to the same OS/DA services that the BOC applicants provide to their retail customers. See Nations Aff. ¶ 5. The applicant telephone companies provide switch-based CLECs with access to OS/DA services via dedicated trunk interconnections. For CLECs providing local service via resale or UNE-P,

¹⁶⁷ Indiana Bell has installed approximately 300 E911 trunks, see Heritage IN Aff., Attach. A; Ohio Bell has installed approximately 400 E911 trunks, see Heritage OH Aff., Attach. A; and Wisconsin Bell has installed approximately 200 E911 trunks, see Heritage WI Aff., Attach. A.

OS/DA calls are routed from the BOCs' end-office switches to the BOCs' operator platforms over the same trunks and in the same time frame that the BOCs use to route calls from their own retail subscribers. See id. ¶ 6.

Pursuant to the terms of their interconnection agreements, CLECs can obtain OS/DA Call Branding whenever their subscribers use the BOCs' OS/DA services. See id. ¶ 9. The BOCs' OS/DA services are available to facilities-based carriers (including both UNE-P and switch-based local exchange providers) at approved rates. See id. ¶ 14.¹⁶⁸ Where CLECs opt to have the BOCs provide OS/DA services, the CLECs' end users obtain OS/DA through the same dialing arrangements used by the BOCs' own end users. See id. ¶ 7; 47 C.F.R. § 51.217.

Alternatively, CLECs may elect to have their subscribers' calls routed from the BOC applicants' end office switches to their own operator platforms or to those of a third-party OS/DA provider. See Nations Aff. ¶ 11. When a CLEC purchases unbundled local switching (with or without shared transport) and elects to route OS/DA to its customers through its own OS/DA platforms, the BOC applicants use a customized routing method based upon Advanced Intelligent Network technology or Line Class Code technology, depending on the CLEC's particular customer serving arrangement. See, e.g., Deere IL Aff. ¶¶ 144-145. CLECs may obtain the BOCs' directory assistance listing information in bulk downloads (with daily updates) in readily accessible magnetic tape format or through electronic transmission via the Network Data Mover. See Nations Aff. ¶ 12. The BOC applicants provide the same listing information to requesting CLECs that the BOCs' operators use for the provision of DA service to their retail

¹⁶⁸ Both the ICC and the IURC required Illinois Bell and Indiana Bell, respectively, to tariff OS and DA as UNES. See Nations Aff. ¶ 14. OS/DA services are available in both Ohio and Wisconsin through SBC's 13-State Generic Interconnection Agreement. See id.

customers and to the subscribers of its wholesale customers. See id. The applicant telephone companies also provide CLECs with direct access to the DA database via physical interconnection, on a query-by-query basis. See id. ¶ 13.

Finally, the BOC applicants generally answer CLECs' subscribers' OS and DA calls on the same basis and in the same time frame as they do for their own subscribers' calls. See, e.g., Ehr IL Aff. ¶ 149 & Attach. I (PMs 80-01 and 82-01).¹⁶⁹

H. Checklist Item 8: White Pages Directory Listings

As required by 47 U.S.C. § 271(c)(2)(B)(viii), the directory listings of CLEC subscribers appear in the White Pages directories in the same manner as the listings of the BOC applicants' retail subscribers. The directory listings of Illinois, Indiana, Ohio, and Wisconsin CLEC subscribers appear in the White Pages directories in the same manner as the listings of BOC applicant retail subscribers. See Kniffen-Rusu Aff. ¶ 4 (App. A, Tab 30). CLECs may order new directory listings, or request changes to existing directory listings, via a local service request or a directory service request. See Cottrell/Lawson Joint Aff. ¶¶ 106-108. Service orders for directory listing requests update the White Pages listing database, which is maintained by SBC Directory Operations. See Kniffen-Rusu Aff. ¶ 4. Switch-based CLECs have the ability to access through SBC's EDI and LEX ordering interfaces the same directory listings ordering functionality that previously was available only through a separate interface provided by AAS. See Cottrell/Lawson Joint Aff. ¶ 106 n.47. Published listings for CLEC subscribers are fully integrated and interspersed alphabetically with the BOC applicants' subscriber listings. See Kniffen-Rusu Aff. ¶ 4.

¹⁶⁹ See also Ehr IN Aff. ¶ 130; Ehr OH Aff. ¶ 135; Ehr WI Aff. ¶ 131.

CLECs may request a White Pages pre-publication verification review report, which provides them with information on their listings scheduled for inclusion in that directory. See id. ¶ 9. This report is provided at no charge. See id. ¶ 10 n.10. Any request must be received no later than 60 days prior to the directory close date for a given directory. This report is typically provided 45 days prior to the directory close date, in a PDF format by Directory name. This report provides CLECs with the opportunity for a pre-publication review of the content of their subscribers' listings and an opportunity to make corrections before the directory is actually printed. See id. ¶ 9. A CLEC may request a second pre-publication verification report, which will be provided 15 calendar days in advance of the directory close date. See id. ¶ 10. All changes to directory listings scheduled for inclusion in a particular directory must be provided no later than the directory close date for that directory. See id.¹⁷⁰

I. Checklist Item 9: Nondiscriminatory Access to Telephone Numbers

Checklist Item 9 requires a BOC to demonstrate that it complies with telecommunications numbering administration guidelines, plan, or rules that this Commission has established. See 47 U.S.C. § 271(c)(2)(B)(ix). In November 1999, Lockheed Martin transferred to NeuStar Inc. all Central Office Code Administration responsibilities. See E. Smith Aff. ¶ 9 & n.2 (App. A, Tab 37). Since completion of this transition of authority, the BOC applicants have satisfied the requirements of the Act by complying with the current number administration rules, regulations, and guidelines established by the various regulatory agencies and the industry numbering forums. They comply with those rules, regulations, and guidelines on the same basis as all other service providers. See id. ¶ 9. No CLEC has raised any issues with respect to any of the BOC

¹⁷⁰ See Easton Agreement, App. WP § 2.6.2.

applicants' compliance with this checklist item, see ICC Final Order ¶ 2185 (“[t]here being no dispute or showing to the contrary, it is reasonable for this Commission to find that [Illinois Bell] is in compliance with Checklist Item 9”); PUCO Final Report and Evaluation at 210 (“[t]here is no dispute that SBC Ohio satisfies this checklist item”); PSCW Phase I Final Order at 223 (“[N]o party challenges SBC Wisconsin’s assertion by claiming that SBC Wisconsin did not provide non-discriminatory access to telephone numbers.”).

J. Checklist Item 10: Nondiscriminatory Access to Databases and Associated Signaling Necessary for Call Routing and Completion

The BOC applicants offer CLECs the same access to signaling and call-related databases as they have, allowing calls to or from CLEC customers to be set up and routed on a nondiscriminatory basis. See Deere IL Aff. ¶¶ 170-210.¹⁷¹ The BOC applicants accordingly satisfy the checklist’s requirements for affording nondiscriminatory access to these components of their networks. See 47 U.S.C. § 271(c)(2)(B)(x); 47 C.F.R. § 51.319(e); Texas Order ¶¶ 362-368.

Signaling Networks. When a CLEC purchases unbundled local switching from the BOC applicant, it obtains the same access to the signaling network as the BOC provides itself. See, e.g., Deere IL Aff. ¶ 175. CLECs can use this unbundled access to furnish Signaling System 7 (“SS7”)-based services for their own end-user customers’ calls or the calls of end-user customers of other carriers. See id. ¶ 174. SS7 signaling is available between CLEC switches, between CLEC switches and the BOC’s switches, or between CLEC switches and the networks of other carriers connected to the SS7 network. See id.

¹⁷¹ See also Deere IN Aff. ¶¶ 170-210; Deere OH Aff. ¶¶ 175-215; Deere WI Aff. ¶¶ 170-210.

Call-Related Databases. The BOC applicants offer CLECs nondiscriminatory access to a variety of call-related databases. Specifically, they provide access to their Line Information Database (“LIDB”), CNAM database, toll-free databases, and its Advanced Intelligent Network. See id. ¶¶ 181-202. The applicant telephone companies likewise provide CLECs with nondiscriminatory access to their local-number portability database, see E. Smith Aff. ¶¶ 10-17, and its Operator Services Marketing Order Processor, which is used to create, modify, and update information in LIDB and CNAM, see, e.g., Deere IL Aff. ¶¶ 203-210; 47 C.F.R. § 51.319(e)(3).

The ICC found that Illinois Bell satisfies this checklist item, see ICC Final Order ¶ 2304; see also PUCO Final Report and Evaluation at 219 (“[b]ased on the record in this proceeding, the PUCO recommends that the FCC find that SBC Ohio has satisfied the requirements of Checklist Item 10”); PSCW Phase I Final Order at 232 (finding that Wisconsin Bell complies with this checklist item).¹⁷²

K. Checklist Item 11: Number Portability

Under this checklist item, a BOC must demonstrate that it is in full compliance with such regulations that this Commission issues requiring “number portability, interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements.” 47 U.S.C. § 271(c)(2)(B)(xi); California Order ¶ 104. Number portability enables customers of facilities-based CLECs to retain their

¹⁷² The PSCW made its conclusion with respect to this checklist item “[s]ubject to the outcome in Phase II.” PSCW Phase I Final Order at 232. Although it did not specifically address Checklist Item 10 in its Phase II order, it did “ultimately conclude that SBC Wisconsin complies with the 14-point checklist requirements as set forth in § 271.” PSCW Phase II Final Order at 3.

existing telephone number even after they no longer subscribe to the BOC applicant's service.

See E. Smith Aff. ¶ 10.

Whether ported with unbundled local loops or on a stand-alone basis, these numbers have been ported in a timely and efficient manner, without unreasonable service disruptions. Indeed, in Illinois, the average time out of service for a CLEC LNP conversion has never reached the 60-minute threshold in the past three months. See Ehr IL Aff. ¶ 155 & Attach. K (PM 100-01). And LNP conversions have averaged less than two minutes out of service during the last three months. See id. Illinois Bell has also met the 96.5-percent benchmark for percent out of service for less than 60 minutes for the last three months. See id. (PM 101-01); see also supra Part III.D.2.d (discussing hot-cut performance generally).¹⁷³

As the Affidavit of Eric Smith describes, the BOC applicants have timely implemented LNP using the Location Routing Number method "preferred" by the Commission. See Second Report and Order, Telephone Number Portability, 12 FCC Rcd 12281, ¶ 9 (1997); E. Smith Aff. ¶¶ 12-13. By October 30, 1999, all of the BOC applicants had equipped their switches with LNP capabilities. See E. Smith Aff. ¶ 12.

To minimize disruptions of service while numbers are being ported, the BOC applicants use an unconditional 10-digit trigger ("UCT") process. See id. ¶ 14. UCT is activated on the customer's number prior to the due date of the initial porting order, where technically feasible. When the CLEC activates its switch port, calls to the customer's telephone number are routed

¹⁷³ The same has also been true in Indiana, see Ehr IN Aff. ¶ 135, and in Wisconsin, see Ehr WI Aff. ¶ 138. In Ohio, LNP conversions have averaged only 8.03 minutes out of service during the last three months, and Ohio Bell has met the 96.5 percent benchmark for percent of LNP conversions out of service for less than 60 minutes in two of the last three months, averaging 95.39 percent during the March through May study period. See Ehr OH Aff. ¶ 140.

automatically to the CLEC's switch. If the telephone number has not been activated, the call is completed on the BOC's switch. Thus, the UCT feature eliminates the need for coordinating the disconnect order from the BOC's switch with activation of the number in the CLEC's switch. This makes it unnecessary for the BOC applicant and the CLEC to coordinate LNP cutovers on a minute-to-minute basis. See id.

CLECs may order stand-alone LNP on a CHC or FDT basis. See id. ¶ 15. Although it is the CLEC's responsibility to make certain the necessary translations for the conversion are ready in its switch prior to the due date, the BOC applicants nonetheless have made procedures available for CLECs to delay and/or cancel LNP conversions on the due date. See id. The BOC applicants' LNP charges are set out in the FCC tariff, and these charges have been found to be both reasonable and lawful. See id. ¶ 16 & n.12.

The ICC found Illinois Bell had satisfied the requirements of Checklist Item 11, see ICC Final Order ¶ 2324; see also PUCO Final Report and Evaluation at 222 (recommending that this Commission find that Ohio Bell has satisfied this checklist item); PSCW Phase I Final Order at 237.¹⁷⁴

L. Checklist Item 12: Local Dialing Parity

Checklist Item 12 requires the BOC to provide nondiscriminatory access to such services or information as are necessary to allow CLECs to implement local dialing parity under section 251(b)(3). See 47 U.S.C. § 271(c)(2)(B)(xii). Local dialing parity ensures that CLECs'

¹⁷⁴ The PSCW made its conclusion with respect to this checklist item "subject to the outcome of Phase II." PSCW Phase I Final Order at 237. Although it did not specifically address Checklist Item 11 in its Phase II order, it did "ultimately conclude that SBC Wisconsin complies with the 14-point checklist requirements as set forth in § 271." PSCW Phase II Final Order at 3.

customers are able to place calls within a given local calling area by dialing the same number of digits as one of SBC's end users. The Commission anticipated "that local dialing parity [would] be achieved upon implementation of the number portability and interconnection requirements of section 251."¹⁷⁵ Each of the BOC applicants has implemented number portability and the other related requirements of section 251, and CLEC customers can make local calls dialing the same number of digits as the BOC applicants' retail customers can. See Deere IL Aff. ¶ 214. The ICC found Illinois Bell in full compliance with Checklist Item 12. See ICC Final Order ¶ 2347.¹⁷⁶

M. Checklist Item 13: Reciprocal Compensation

Consistent with sections 271(c)(2)(B)(xiii) and 252(d)(2), the BOC applicants facilitate the exchange of traffic with CLECs by having entered into just and reasonable reciprocal compensation arrangements for transport and termination of local traffic on the other carrier's network. Pursuant to these arrangements, Illinois Bell and Illinois CLECs, for example, exchanged approximately 2.1 billion minutes of local traffic in April 2003 alone. See Heritage IL Aff., Attach. A.¹⁷⁷ The BOC applicants have each implemented processes accurately to

¹⁷⁵ Second Report and Order and Memorandum Opinion and Order, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, 11 FCC Rcd 19392, ¶ 68 (1996).

¹⁷⁶ See also Deere IN Aff. ¶ 214; Deere OH Aff. ¶ 219; PUCO Final Report and Evaluation at 223; Deere WI Aff. ¶ 214; PSCW Phase I Final Order at 239.

¹⁷⁷ Indiana Bell and Indiana CLECs exchanged approximately 822 million minutes in the same month, see Heritage IN Aff., Attach. A; Ohio Bell and Ohio CLECs exchanged approximately 1.5 billion minutes in the same month, see Heritage OH Aff., Attach. A; and Wisconsin Bell and Wisconsin CLECs exchanged approximately 659 million minutes in the same month, see Heritage WI Aff., Attach. A

account for such traffic and compensation, and they have entered into agreements that provide for the parties to be compensated at lawful rates. See Alexander IL Aff. ¶¶ 98-99.¹⁷⁸

Pursuant to the ISP Reciprocal Compensation Order,¹⁷⁹ each of the BOC applicants had the option to choose whether to invoke the rate caps set forth by the Commission in that order. Each of the BOC applicants has issued an accessible letter, offering carriers in its state the contractual option of exchanging ISP-bound and Section 251(b)(5) traffic in accordance with the rates, terms, and conditions of the Commission's ISP Reciprocal Compensation Order on or after June 1, 2003. This offer was made in accordance with paragraph 89 of the ISP Reciprocal Compensation Order, which set forth the so-called "mirroring" rule. In addition, the BOC applicants are providing direct notice to all carriers with existing interconnection agreements regarding its invocation of the rates, terms, and conditions of the Commission's ISP Reciprocal Compensation Order with respect to ISP-bound traffic.¹⁸⁰

The ICC has concluded, "on the basis of the relevant evidence, and there being no 'factual' dispute to resolve," that Illinois Bell has complied with requirements of Checklist Item 13. See ICC Final Order ¶ 2525. Similarly, the PUCO recommends that this Commission find that Ohio Bell has demonstrated compliance with this checklist item. See PUCO Final Report

¹⁷⁸ See also Alexander IN Aff. ¶¶ 97-98; Alexander OH Aff. ¶¶ 97-98; Alexander WI Aff. ¶¶ 97-98.

¹⁷⁹ Order on Remand and Report and Order, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Intercarrier Compensation for ISP-Bound Traffic, 16 FCC Rcd 9151 (2001), remanded, WorldCom, Inc. v. FCC, 288 F.3d 429 (D.C. Cir. 2002), cert. denied, 123 S. Ct. 1927 (2003).

¹⁸⁰ See Alexander IL Aff. ¶ 100; Alexander IN Aff. ¶ 99; Alexander OH Aff. ¶ 99; Alexander WI Aff. ¶ 99.

and Recommendation at 227. The PSCW has reached the same conclusion. See PSCW Phase I Final Order at 246.

N. Checklist Item 14: Resale

In Illinois, 40 CLECs are reselling approximately 97,000 lines. See Heritage IL Aff., Attach. A. In Indiana, 45 CLECs are reselling approximately 21,000 lines. See Heritage IN Aff., Attach. A. In Ohio, 30 CLECs are reselling approximately 21,000 lines. See Heritage OH Aff., Attach. A. In Wisconsin, 25 CLECs are reselling approximately 27,000 lines. See Heritage WI Aff., Attach. A.

The ICC approved a methodology for calculating Illinois Bell's wholesale rates that requires the application of a specific discount for a specific rate element; in other words, the percentage discount varies by rate element. See Wardin Aff. ¶ 61. The wholesale price for a rate element must be recalculated each time the corresponding retail price changes. The current calculated discounts are listed in each applicable interconnection agreement Resale Appendix Pricing Schedule and in Illinois Bell's tariff. See id. According to the ICC, Illinois Bell has met its burden with respect to this checklist item. See ICC Final Order ¶ 2562.

The IURC established two discounts – one for when the reseller purchases OS and DA, which is 21.46 percent, and a second for when the reseller does not purchase these services, which is 22.13 percent. See Butler Aff. ¶ 107. These avoided cost discounts are generally applied to resold telecommunications services.

Like the IURC, the PUCO also established two wholesale discounts – 20.29 percent, for resellers that purchase OS and DA, and 21.45 percent, for resellers that do not. See McKenzie Aff. ¶ 105; see also PUCO Final Report and Evaluation at 228. The PUCO found Ohio Bell to

have demonstrated compliance with this checklist item. PUCO Final Report and Evaluation at 233.

The PSCW approved the wholesale discounts that Wisconsin Bell had included in its statement of generally available terms. See VanderSanden Aff. ¶ 99. The wholesale discounts vary by “family,” and they also vary depending on whether the retail services are business or residential. See id. ¶ 100. The PSCW found Wisconsin Bell to have satisfied Checklist Item 14. PSCW Phase I Final Order at 251.

Each of the BOC applicants makes available for resale the same telecommunications services that it furnishes its own retail customers. See Alexander IL Aff. ¶ 106.¹⁸¹ CLECs are able to sell these services to the same customer groups and in the same manner as the BOC. See id. Each BOC applicant offers wholesale discounts on promotional offerings lasting 91 days or more. Id. ¶ 109. The BOC applicants’ existing retail customer contracts are also available for resale without restriction beyond those restrictions applicable to their retail service arrangements (e.g., no cross-class selling) that have been found to be reasonable and nondiscriminatory. See id. ¶ 112. CLECs can assume the BOCs’ existing retail customer contracts without triggering termination liabilities or transferal fees to the end user. See id.; Kansas/Oklahoma Order ¶ 253; New York Order ¶ 390; Second Louisiana Order ¶ 313.

The performance results clearly demonstrate that the BOC applicants provide CLECs nondiscriminatory provisioning of its resale telecommunications services. Illinois Bell met or exceeded the performance standard for 86.4 percent of the pertinent submeasures in at least two of the last three months. See Ehr IL Aff. ¶ 161 & Attach. L. Indiana Bell met or exceeded the

¹⁸¹ See also Alexander IN Aff. ¶ 105; Alexander OH Aff. ¶ 105; Alexander WI Aff. ¶ 105.

performance standard for 98 percent of the pertinent submeasures in at least two of the last three months. See Ehr IN Aff. ¶ 142 & Attach. L. Ohio Bell met or exceeded the performance standard for 93.9 percent of the pertinent submeasures in at least two of the last three months. See Ehr OH Aff. ¶ 146 & Attach. L. Wisconsin Bell met or exceeded the performance standard for 95.5 percent of the pertinent submeasures in at least two of the last three months. See Ehr WI Aff. ¶ 143 & Attach. L.

Just as in the SWBT and Pacific regions, SBC does not generally offer a DSL telecommunications service at retail in Illinois, Indiana, Ohio, or Wisconsin, see Habeeb Aff. ¶ 19, so it is not required to offer such a service at a resale discount pursuant to section 251(c)(4). This Commission has concluded that the section 271 process is not the appropriate proceeding in which to address the “far-reaching implications for a wide range of issues” relating to the regulatory treatment of high-speed Internet access services, California Order ¶ 113, and the Commission has initiated a proceeding in which it intends to address these issues.¹⁸²

With respect to those advanced telecommunications services that SBC does provide at retail – including Frame Relay, ATM Cell Relay, customer service contracts, and R-LAN DSL Transport – AADS makes all of them available for resale at the appropriate wholesale discount. See Habeeb Aff. ¶ 28; IG2 Agreement § 11.F (e.g., App. B-IL, Tab 11).

IV. SBC’S ENTRY INTO THE INTERLATA SERVICES MARKETS WILL PROMOTE COMPETITION AND FURTHER THE PUBLIC INTEREST

Section 271 requires this Commission to determine whether interLATA entry “is consistent with the public interest, convenience, and necessity.” 47 U.S.C. § 271(d)(3)(C).

¹⁸² See Notice of Proposed Rulemaking, Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, 16 FCC Rcd 22781 (2001).